

Opinion No. 24**Junior Colleges—Mill Levy—Budget.**

Held: (1) **The cost of maintenance and operation of Junior Colleges must be included in the County or District High School Budget. The maximum mill levy allowed for Junior Colleges is thereby limited and controlled by the maximum mill levy allowed under the High School Budget System.**

May 24th, 1949.

Miss Mary M. Condon
State Superintendent of Public Instruction
Capitol Building
Helena, Montana

Dear Miss Condon:

You have submitted for my opinion the following questions:

- (1) What is the legal limit to the number of mills the County Commission may levy for the Junior College without a vote of the people?
- (2) Is Chapter 158, Session Laws of 1939, Section 9, the only reference to budgets for Junior Colleges?

The enabling act that provides for the establishment of Junior Colleges is Chapter 158, Session Laws of 1939.

In answering your first question, Section 9 of the above act must be considered and it provides as follows:

"The County High School Board or District High School Board shall be authorized **to include in their budget** a sufficient sum to operate and maintain the junior college departments as herein provided the amount of such budget to be left to their determination. Such Boards are also empowered in their discretion, when they shall deem it necessary, to charge tuitions at a maximum rate of not exceeding one hundred twenty-five and no/100 (\$125.00) dollars per year for attendance at junior colleges established under the terms of this act." (Emphasis supplied.)

It is apparent from the above section that the Legislature intended that the cost of operation and maintenance of junior college departments be included in the budget of either the County High School Board or District High School Board as the case may be.

The High School Boards, under Chapter 158, Session Laws of 1939, are given wide discretion in providing a sufficient sum for operations and maintenance of Junior Colleges, however, this expense must be included in the High School Budget.

Section 1263.5 of the Revised Codes of Montana, 1935, as amended, provides for the preparation and adoption of High School Budgets. The statute also provides for restrictions on the amount of appropriation that will be allowed, depending on the estimated receipts for the general fund of such high school and upon the number of pupils enrolled.

Section 1263.11 of the Revised Codes of Montana, as amended by Chapter 131, Montana Session Laws, 1941, Section 14, Chapter 152, Montana Session Laws, 1941, Chapter 191, Montana Session Laws, 1943, Chapter 133, Montana Session Laws, 1945, Chapter 274, Montana Session Laws, 1947, and Chapter 199, Montana Session Laws, 1949, is also important in this respect as it provides that the County Commissioners may levy an annual special tax for high school purposes, amounting to ten mills on the dollar of the taxable value of all taxable property within the County.

From the above Sections it is evident that the maximum mill levy for High School Budgets in each County or District will vary. As the Junior College Budget must be included in the High School Budget, it follows that the maximum mill levy for Junior Colleges will also vary.

In passing, it should be noted that nothing contained in the above mentioned statutes should be construed as preventing any school district from voting an additional levy for high school purposes or Junior College purposes, in accordance with the general school laws pertaining to the voting of additional levies by school districts.

In answer to your second question ,it is my opinion that Chapter 158, Montana Session Laws of 1939, is the only law with reference to budgets for Junior Colleges.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.